

Thomas-Jensen

Affirmation

Exhibit # 95

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as President of the United States; et al.,

Defendants.

C.A. No. 1:25-cv-00039-JJM-PAS

DECLARATION OF PAM POISSON

I, PAM POISSON, hereby depose and state as follows:

Introduction

1. I am the Chief Financial Officer (CFO) at the New York State Energy Research and Development Authority (NYSERDA). I have held that Board-approved Officer position since October 5, 2021, having previously served as acting CFO since July of 2021. I make this declaration as a representative of NYSERDA, in part based on NYSERDA business records and in part based on my personal knowledge and experience as well as representations made by grant-specific NYSERDA program staff as to program expectations. In my official capacity and based on my personal knowledge and other sources of information I have obtained and reviewed in that official capacity, I am familiar with, and if called upon to do so, would be competent to testify to the facts and circumstances set forth herein.

2. NYSERDA has received six grants and one subgrant under the Bipartisan Infrastructure Law (BIL) (also known as the Infrastructure Investment and Jobs Act (IIJA)) and seven awards and one subgrant under the Inflation Reduction Act (IRA) that are impacted by the

pause on federal funding, with a combined value of over \$747 million. These awards fund critical programs and activities across NYSERDA, supporting economic development, lowering energy costs for low-income New Yorkers, creating private sector jobs, and providing meaningful financial benefits to individuals and communities throughout the state. This declaration focuses on five of those federal grant awards, to illustrate the scope and impact of the pause on federal funding. Details of the full financial impact of the pause across all NYSERDA's BIL and IRA awards is provided in the concluding paragraphs.

Background

3. This declaration discusses some of the adverse impacts of the threatened and actual suspensions and impoundments of federal grant funding resulting from: (1) President Trump's Executive Orders; (2) the memorandum "Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs," Matthew J. Vaeth, Acting Director of the Office of Management and Budget (January 28, 2025) ("OMB Memo"); and (3) other federal agency actions.

4. I learned that NYSERDA had been impacted by the OMB-directed freeze on the morning of January 29, 2025, when my staff in the Finance Department reported to me that they no longer had access to NYSERDA's grants in the Automated Standard Application for Payments software system.

Discussion of Federally-Funded Programs at Risk

GREENHOUSE GAS REDUCTION FUND: SOLAR FOR ALL

5. On October 11, 2023, NYSERDA applied for a grant under the United States Environmental Protection Agency's (EPA's) Greenhouse Gas Reduction Fund (GGRF) Solar for All Program (Solar for All Program).

6. On July 9, 2024, NYSERDA received confirmation from EPA that NYSERDA had been awarded a Solar for All Program grant in the amount of \$249,800,000.

7. Pursuant to the terms and conditions of the grant award, funds are received in the form of reimbursement for actual costs incurred by NYSERDA in implementing and administering the Solar for All Program in New York.

8. The Solar for All Program grant is intended to enhance New York State's existing portfolio of highly successful and effective solar deployment, technical assistance, and workforce development programs for the benefit of over 6.8 million residents that live in low-income and disadvantaged communities. Specific program elements include: (a) implementing an Energy Assistance Program (EAP) + Community Solar, which will provide community solar and associated guaranteed bill savings to all customers participating in a utility's Energy Affordability Program, which is a utility bill discount program for low-income households. GGRF Solar for All funds will be used to fund additional projects with greater household savings than would otherwise be possible; (b) providing financial assistance program options and financial solutions to address market gaps in serving low-income disadvantaged communities, including through a residential rooftop solar incentive, a revolving loan fund, and a loan loss reserve fund to provide partial portfolio loss coverage to lenders financing residential rooftop solar and residential-serving community solar investments; (c) procuring technical assistance to support the Solar for All activities to be undertaken by subrecipient agencies; and (d) funding an on-the-job training program, providing wage subsidies to solar developers and design and installation companies to hire workers from low-income and disadvantaged communities and to support training and certification costs for these new hires.

9. Subrecipient agencies, New York State Housing & Community Renewal (HCR) and New York City Department of Environmental Protection (DEP), will also use these IRA funds to implement programs that target specific barriers to solar deployment. HCR will receive a subgrant of \$36,302,500 to provide solar subsidies for rooftop residential solar projects on multifamily affordable housing development projects, as well financial support for solar rooftop projects on low- and moderate-income single-family homes. DEP will receive a subgrant of \$37,000,000 and will support Public Solar NYC, a New York City initiative that will implement programs to provide affordable leases of solar equipment, finance residential-serving community solar projects, and provide grants for solar-supporting property upgrades.

10. On January 28, 2025, NYSERDA received an email notification from EPA stating that EPA was pausing all funding actions related to the IRA and the IIJA. See Exhibit A attached hereto.

11. To date, of the total Solar for All Program grant of \$249,800,000, NYSERDA has been reimbursed by EPA for administrative and planning costs totaling \$281,365.85. Therefore, should the pause in funding for the Solar for All Program grant be made permanent, the total cost to NYSERDA and the subrecipient agencies is \$249,518,634.15 (\$400,000 of which was budgeted as in-kind assistance to be provided by the United States Department of Energy).

12. NYSERDA anticipates that the Solar for All Program grant would result in the deployment of community and residential solar projects with a capacity of over 242 MW. Those projects are expected to provide \$223 million in savings over their lifetime, in the form of reduced utility bills for low-income households. The investment and economic development related to these solar projects is also expected to create 3,320 full time jobs.

13. The Solar for All Program grant is additional to existing state funding sources deployed by NYSERDA's NY-Sun program for solar energy projects. Should the Solar for All Program grant be cancelled, the funding is unlikely to be replaced by state funding sources on the timetable contemplated by the federal grant. As such, should the grant be cancelled, the projected household savings and job creation would be lost.

HOME ENERGY REBATES (HER) PROGRAM

14. On June 14, 2024, and August 14, 2024, NYSERDA applied for the U.S. Department of Energy's Home Energy Rebates (HER) program.

15. On August 21, 2024, NYSERDA received confirmation from the Department of Energy that NYSERDA had been awarded the HER grant in the amount of \$159,021,883.

16. Pursuant to the terms and conditions of the grant award, funds are received in the form of reimbursement for actual costs incurred by NYSERDA in implementing and administering the HER program in New York.

17. NYSERDA plans to focus HER funding on 2+ unit multifamily residential buildings, providing funding to encourage deeper energy savings projects such as air sealing, insulation, heating and cooling system upgrades, and water heater upgrades as needed. Projects will be eligible to receive incentives per dwelling unit based on modeled energy savings ranging from \$2,000 - \$84,000 per unit depending on the energy savings and the income eligibility of the building, with a cap of up to \$200,000 - \$400,000 per building depending on energy savings and income eligibility. A portion of the HER funding will be used for NYSERDA's Comfort Home program, a market-rate program that offers homeowners between \$1,600 to \$4,000 for installation of seal and insulate packages, depending on the type of improvements being made. NYSERDA planned on providing services to 32,000 dwelling units through HER.

18. Prior to the pause in federal funding, NYSERDA had not yet launched its programming under the HER award and has not yet sought any reimbursement. The harm to NYSERDA from the impoundment of this award is the full award amount of \$159,021,883.

19. The impact of delayed or cancelled funding equates to higher energy bills experienced by tens of thousands of New Yorkers who would have been served with this funding over the life of the award.

HOME ELECTRIFICATION AND APPLIANCE REBATES (HEAR) PROGRAM

20. On December 28, 2023, NYSERDA applied for the U.S. Department of Energy's Home Electrification and Appliance Rebates (HEAR) Program fast-track option.

21. On April 16, 2024, NYSERDA received confirmation from the U.S. Department of Energy that NYSERDA had been awarded the fast-track grant the day before.

22. On June 14, 2024, NYSERDA submitted a full application to the HEAR program.

23. On August 26, 2024, NYSERDA was notified that NYSERDA's full HEAR application was granted, and that a modification to the agreement had been signed. NYSERDA's total award was \$158,415,850.

24. Pursuant to the terms and conditions of the grant award, funds are received in the form of reimbursement for actual costs incurred by NYSERDA in implementing and administering the HEAR program in New York.

25. On May 30, 2024, New York became the first state to offer HEAR funding for home energy efficiency and electrification upgrades through the Inflation Reduction Act.

26. NYSERDA has used HEAR funding in two separate programs that are currently offering incentives to New Yorkers: EmPower+ and the Appliance Upgrade Program (AUP).

EmPower+ Program

27. Through NYSERDA's EmPower+ program, eligible owners of one to four family homes are able to receive significant discounts, up to 100 percent of total project cost, for insulation and air sealing, heat pumps for space and water heating, and any necessary electrical upgrades to support those improvements. EmPower+ incentives are based on household income eligibility and the types of energy efficiency improvements included in a project.

28. In EmPower+, low-income, single-family households are eligible for no-cost energy efficiency improvements capped at \$10,000 per project while moderate-income single-family households are eligible for no-cost energy efficiency improvements capped at \$5,000 per project.

29. This funding can cover a range of upgrades, with prioritization for core energy efficiency improvements, including insulation, air sealing, electrical service upgrades, electrical wiring upgrades, heat pump water heaters and heat pumps. For homes that have air sealing and insulation completed, contractors can make recommendations to upgrade heating and cooling equipment through EmPower+.

30. NYSERDA's award was designed to use rebate funds for consumer rebates for, allowable products at up to \$14,000 per customer, as well as installation contractor incentives, and affiliated consumer protection and income verification, among other things.

Appliance Upgrade Program (AUP)

31. NYSERDA was the first in the nation to roll out a point-of-sale appliance program with HEAR funding with its launch of AUP on November 21, 2024.

32. Through AUP, New York offers retail point-of-sale appliance rebates to provide a customer-centered process for replacing inefficient electric or fossil fuel-powered clothes dryers

with ENERGY STAR certified clean heat pump powered alternatives, and contractor rebates for making associated electrical upgrades if needed.

33. ENERGY STAR- certified heat pump dryers use less energy compared to conventional dryers, which can save consumers significant electricity costs over the life of the product.¹

34. Around 80% of U.S. households have a clothes dryer, with the average household using their dryer for nearly 300 loads of laundry per year.² Those who switch to an ENERGY STAR® certified heat pump clothes dryer from a standard electric dryer can expect to save an average of \$330 annually.³

35. Households may receive a maximum of \$840 in incentives for the appliance purchase and installation, and an additional maximum incentive of \$2,500 and \$4,000, respectively, for necessary electrical wiring and panel upgrades. Households under 80 percent AMI are eligible to receive up to \$14,000 in total combined incentives under the Appliance Upgrade Program and EmPower+. Prior to the funding freeze, New York was scheduled to expand the rebate program in 2025 to include additional clean energy appliances and eligibility for owners of residential low- and moderate-income multifamily buildings to apply for rebates.

36. In order to achieve this milestone and bring these cost-saving appliances to low-income New Yorkers, NYSERDA provided extensive cost share with state funding, including to build a portal for submission of rebate applications for use until the DOE portal becomes available. NYSERDA incurred \$396,363 in costs for this portal, along with months of staff and

¹ https://www.energystar.gov/products/clothes_dryers/heat-pump-dryer

² <https://www.energystar.gov/products/ask-the-experts/save-more-laundry-heat-pump-clothes-dryer>

³ Clothes dryers. MyEnergy.NY.gov. (2024, December 26). <https://myenergy.ny.gov/how-to-upgrade/appliances-electronics/clothes-dryers/>

counsel time obtaining participation from local and national retailers, each of which had its own systems for which to account in establishing electronic access for information sharing.

37. The HEAR AUP program has served approximately 414 households and has issued \$343,000 in appliance rebates within the first three months with over 1,000 applications in progress.

38. NYSERDA has launched its HEAR programming and it is successfully in the implementation stage. To date, NYSERDA has sought and received reimbursement for approximately 5% of its HEAR funding. The harm to NYSERDA from the impoundment of this award is the remaining roughly 95%, a total of \$149,871,787.18.

39. NYSERDA anticipated serving 43,000 New York households with HEAR funds under AUP and EmPower+ but will only be able to achieve a small fraction of this number if the HEAR grant is canceled.

40. NYSERDA expects that, from the 1,400 projects completed to date and paid for with HEAR funding, New Yorkers will save approximately \$3 million in total energy costs across the lifetime of the installed measures. Based on an estimated \$125 average annual energy savings per household, NYSERDA projects that New Yorkers will pay an additional \$65 million in energy costs without the HEAP award's services.

GRIP: PREVENTING OUTAGES AND ENHANCING THE RESILIENCE OF THE ELECTRIC GRID PROGRAM

41. On May 31, 2023, NYSERDA applied to the U.S. Department of Energy's GRIP: Preventing Outages and Enhancing the Resilience of the Electric Grid Program for years one and two, and on April 15, 2024, applied for year three.

42. On August 28, 2023, NYSERDA received confirmation from the U.S. Department of Energy that NYSERDA had been awarded the grant for years one and two, and on August 20, 2024, received notice that the NYSERDA award had been modified to include year three. The total amount for all three years is \$35,407,764.

43. Pursuant to the terms and conditions of the grant award, funds are received in the form of reimbursement for actual costs incurred by NYSERDA in implementing and administering the GRIP program in New York.

44. NYSERDA is using this federal funding to improve the resilience of the State's electric grid against extreme weather and natural disasters. Specifically, this award provides funding to municipal utility, rural electric cooperative and small grid operators within New York that sell less than 4,000,000 MWh electricity annually to support the implementation of projects like advanced modeling technologies; hardening of power lines, facilities, substations, or other systems; monitoring and control technologies; relocation of power lines or reconductoring of power lines; replacement of old overhead conductors & underground cables; use or construction of projects that enhance system adaptive capacity during disruptive events, including microgrids and battery-storage subcomponents; and weatherization technologies and equipment.

45. Prior to the pause in federal funding, NYSERDA had not yet launched its programming under the GRIP award and has not yet sought any reimbursement. The harm to NYSERDA from the impoundment of this award is the full award amount of \$35,407,764. A delay or cancellation of this award would result in NYSERDA delaying this electric grid resilience work, potentially increasing the risk of damage to the grid in a severe weather event and causing additional harm to small municipal electric utilities whose systems are in need of

safety upgrades. This is one of a very few sources of funding for such municipal utility projects and alternate funding sources may not be easily secured.

STATE ENERGY PLAN: BIPARTISAN INFRASTRUCTURE LAW

46. On December 05, 2022, NYSERDA applied for the State Energy Plan: Bipartisan Infrastructure Law (SEP-BIL) Program. State Energy Plan formula grants are designated for a state's designated energy office; NYSERDA is New York's designated energy office.

47. On August 11, 2023, NYSERDA received confirmation from the U.S. Department of Energy that NYSERDA had been awarded the SEP-BIL grant in the amount of \$17,323,790.

48. Pursuant to the terms and conditions of the grant award, funds are received in the form of reimbursement for actual costs incurred by NYSERDA in implementing and administering the SEP-BIL program in New York.

49. Funding for the SEP-BIL program in New York is used for necessary updates to New York State's Energy Security Plan in coordination with the New York State Division of Homeland Security and Emergency Services and the U.S. Department of Homeland Security Cybersecurity & Infrastructure Security Agency to address, among other things, cybersecurity threats.

50. Additionally, SEP-BIL funding supports three additional projects, to grow domestic supply chain and manufacturing, support domestic innovation and to support power grid planning and resilience.

51. NYSERDA has requested, and been provided with, reimbursement of \$375,902.36 to date under this award, approximately 2% of the total award. The impact of this impoundment on NYSERDA is the remaining 98%, a total of \$16,947,887.64.

52. Should this grant be cancelled, NYSERDA would likely encounter delays and would have to secure additional funding to provide needed updates to New York State's Energy Security Plan, and would not be able to take the steps outlined above to further timely support grid resiliency, collectively address regional needs for system-wide planning for grid expansion and modernization, and further develop a domestic and New York based supply and manufacturing chain.

OTHER IMPOUNDED FEDERAL GRANTS

53. In addition to the above-detailed grants, NYSERDA also obtained federal funding from a number of additional awards from the U.S. Departments of Energy, Labor, and Transportation. Those awards support projects across NYSERDA's programmatic portfolio, including workforce training, electric vehicle charging infrastructure, technical assistance for rural businesses and agriculture, building retrofits for improved energy efficiency, and the development and modernization of state building energy codes. NYSERDA was awarded over \$127 million for these programs.

54. In total, the impact of the impoundment on NYSERDA exceeds \$737.5 million.

55. As of the date of my signature on this document, all of NYSERDA's federal accounts that are eligible for active reimbursement remain frozen. See, *e.g.*, Exhibit B, attached hereto, a communication sent to NYSERDA staff from the United States Department of Agriculture received February 5, 2025, stating that "we have been frozen from making any disbursements on IRA funded projects which includes" the NYSERDA award and that "The freeze is due to E.O. UNLEASHING AMERICAN ENERGY."

SIGNED UNDER THE PENALTIES OF PERJURY THIS 5th DAY OF FEBRUARY, 2025.



PAM POISSON
CHIEF FINANCIAL OFFICER

EXHIBIT A

EXHIBIT A

From: EPA_Grants_Info <EPA_Grants_Info@epa.gov>
Sent: Tuesday, January 28, 2025 4:42 PM
Subject: Pause EPA Grants

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Dear Grant Recipient,

EPA is working diligently to implement President Trump's [Unleashing American Energy](#) Executive Order issued on January 20 in coordination with the Office of Management and Budget. The agency has paused all funding actions related to the Inflation Reduction Act and the Infrastructure Investment and Jobs Act at this time. EPA is continuing to work with OMB as they review processes, policies, and programs, as required by the Executive Order.

Thank you.

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EXHIBIT B

From: Pereira, Gary - RD, NY
To: Yatto, Erik (NYSERDA)
Cc: Baldyga, Todd A (NYSERDA); Zweig, Jessica L (NYSERDA)
Subject: RE: [External Email]NYSERDA drawdown request #2
Date: Wednesday, February 5, 2025 3:57:53 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

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Erik,

Unfortunately, we have been frozen from making any disbursements on IRA funded projects which includes REAP TAG.

The freeze is due to E.O. UNLEASHING AMERICAN ENERGY

<https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>

See section 7.

Sec. 7. Terminating the Green New Deal. (a) All agencies shall immediately pause the disbursement of funds appropriated through the Inflation Reduction Act of 2022 (Public Law 117-169) or the Infrastructure Investment and Jobs Act (Public Law 117-58), including but not limited to funds for electric vehicle charging stations made available through the National Electric Vehicle Infrastructure Formula Program and the Charging and Fueling Infrastructure Discretionary Grant Program, and shall review their processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of such appropriated funds for consistency with the law and the policy outlined in section 2 of this order. Within 90 days of the date of this order, all agency heads shall submit a report to the Director of the NEC and Director of OMB that details the findings of this review, including recommendations to enhance their alignment with the policy set forth in section 2. No funds identified in this subsection (a) shall be disbursed by a given agency until the Director of OMB and Assistant to the President for Economic Policy have determined that such disbursements are consistent with any review recommendations they have chosen to adopt.

USDA currently has no additional guidance on this E.O.

-Gary Pereira

From: Yatto, Erik (NYSERDA) <Erik.Yatto@nyserda.ny.gov>
Sent: Wednesday, February 5, 2025 11:27 AM
To: Pereira, Gary - RD, NY <gary.pereira@usda.gov>

Cc: Baldyga, Todd A (NYSERDA) <Todd.Baldyga@nyserda.ny.gov>; Zweig, Jessica L (NYSERDA) <Jessica.Zweig@nyserda.ny.gov>
Subject: [External Email]NYSERDA drawdown request #2

[External Email]

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Hi Gary,

Attached is NYSERDA's second draw down request. Please let us know if you have any questions, or if there is anything missing. Thank you.

Erik

Erik Yatto

Energy Accountant

NYSERDA

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TO GUIDE OUR ORGANIZATION'S CURRENT AND FUTURE INITIATIVES.

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